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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,816	06/04/2001	Herve Gaudillat	Q64768	1966
7590 06/19/2006			EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC			SHEW, JOHN	
Suite 800			ART UNIT	PAPER NUMBER
2100 Pennsylvania Avenue, N.W.			ARTONII	PAPER NUMBER
Washington, DC 20037-3213			2616	
			DATE MAILED: 06/19/2004	4

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
09/871,816	GAUDILLAT, HERVE		
Examiner	Art Unit		
John L. Shew	2616		

The MALINIO DATE of this communication appears on the cover sheet with the correspondence address THE REPLY PLEUD 18 May 2008 PAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. □ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely life one of the following replies: (1) an amendment, affording, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.14. The reply must be filed within one of the following time periods: a) □ The period for reply expires 2 months from the mailing date of the Advery Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, with the satistory period for reply expires or: (1) the mailing date of this Advery Action, or (2) the date set forth in the final rejection. Examiner Note: (1 box 1 is checked, check either box (6) or (6). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLECTION. See MPEP 706.07(i). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.315(a) and the appropriate extension fee shakes used to the same of the period of the period of the period of the same of the period of the same of the mailing date of the final rejection. When the period set for this or the final rejection, which are appropriate extension fee under 37 CFR 1.32(a). The date on the period set for purposes of determining the period of extension and the corresponding munor of the final rejection for under 37 CFR 1.37(a). The period set for purposes of expense (37 CFR 4.1.37(a)). The period set forth in 37 CFR 4.1.37(a). The period set forth in 37 CFR 4.37(a). The period set forth in 37 CFR 4.37(a). The period set forth in 37 CFR 4.37(a). The period set forth in 37 CFR 4.		
1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must limely file one of the following replies (*) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41, 31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) ☑ The period for reply expires 3_months from the mailing date of the final rejection. b) ☐ The period for reply expires 3_months from the mailing date of the final rejection. Examine Note: if Not is checked, check whete Not (a) or (8) O.N.Y. CHECK DX (6) W.HENT THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY W	The MAILING DATE of this communication appears on the cover sheet with the correspondence address	
this application, applicant must timely file one of the following replies: (1) an amendment, affidavil, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal efee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expires 3 months from the mailing date of the final rejection, compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods: b) The period for reply expires 3 months from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expires on: (1) the mailing date of the final rejection. Examine Note: If Not is checked, check either box (a) or (b), O.N.Y CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.136(a) and the appropriate extension fee under 37 CFR 1.136(a). The Notice collaboration of the expired patent term in the final rejection, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any exerciple and the service of Appeal was filed on the service of the patent of the patent of the Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal as 5 CFR 1.704(b). MOTICE OF APPEAL 2. The Notice for Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a), or any extension thereof (37 C	THE REPLY FILED <u>18 May 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.	
b)	this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the	
b)		
MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a) that date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filled is the date for purposes of determining the perido of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the find caction; of (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any examend patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s): (See 37 CFR 1.116 and 41.33(a)). 5. Applicant's reply has overcome the following rejection (s): (See 37 CFR 1.116 and 41.33(a)).	b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.	
been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the 30 GPa extension from the 10 above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any seamed patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on	MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).	
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(a)	of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).	
(a)	3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because	
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AFFIDAVIT OR OTHER EVIDENCE B. The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). D. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).		
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 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) 	10. 🔲 The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.	
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Continuation of 11. does NOT place the application in condition for allowance because:

The applicant's arguments pertaining to claim 1 has been fully considered but deemed non-persuasive. The applicant's specification clearly states Figure 1 to be prior art (page 4 line 24). As such all elements in Figure 1 are considered to be prior art and not only sub elements since there is no clear demarcation. Therefore the use of the instant application's prior art is fully admissible for the rejection..

SEEMA S. RAO 6 (15 106)
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600